

# TENNESSEE BOARD FOR LICENSING CONTRACTORS

## LAW, RULES & REGULATIONS AMENDMENTS / RESOURCES

*This contains a summary of legislation and rules recently passed and not published in our most recent publication in the "2007 Edition - Law, Rules and Regulations". In addition, laws relative to the industry are included; however, only ones under Title 62, Chapter 6 are within the Board's statute. Other resources are also included and may review all the laws at the Board's website at: <http://tn.gov/commerce/boards/contractors/> or contact staff at 1-800-544-7693.*

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### **2009 Legislation - Summary of Bills Passed**

#### **PUBLIC CHAPTER NO. 482**

#### **SENATE BILL NO. 1413**

#### **(Unlicensed Contractor- Recovery)**

AN ACT to amend Tennessee Code Annotated, Title 62, Chapter 6, relative to general contractors. BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

**SECTION 1.** Tennessee Code Annotated, Section 62-6-103, is amended by deleting subsection (b) in its entirety and by substituting instead the following language: (b) Any contractor required to be licensed under this chapter who is in violation of any of the provisions of this chapter or the rules and regulations promulgated by the board shall not be permitted to recover any damages in any court other than actual documented expenses that can be shown by clear and convincing proof.

**SECTION 2.** Tennessee Code Annotated, Section 62-6-102, is amended by adding the following language as a new, appropriately designated subdivision: ( ) "Board" means the state board for licensing contractors created pursuant to § 62-6-104;

**SECTION 3.** This act shall take effect upon becoming a law, the public welfare requiring it. **PASSED: June 2, 2009**

**PUBLIC CHAPTER NO. 483  
SENATE BILL NO. 1417  
(Contracts - Lien Waiver Rights Prohibited)**

AN ACT to amend Tennessee Code Annotated, Title 47, Chapter 18; Title 47, Chapter 25; Title 62, Chapter 6 and Title 66, Chapter 34, relative to contractors' liens. BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

**SECTION 1.** Tennessee Code Annotated, Section 66-11-124(b), is amended by designating the existing language as subdivision (1) and by adding the following language as a new subdivision as follows: (2)(A) If a contractor solicits any person to sign a contract requiring the person to waive a right of lien in violation of this section, such person shall notify the state board for licensing contractors of such fact. Upon receiving such information, the executive director of the board shall notify such contractor within a reasonable time after receiving the information that the contract is against the public policy of this state and in violation of this section. If the contractor voluntarily deletes the waiver of lien provision from such contract and affirmatively states that such language will not be included in any future contracts to perform construction work in Tennessee, no further action shall be taken by the board against the contractor unless a later complaint is filed against the contractor.(B) If the contractor does not delete the waiver of lien provision, then the executive director shall schedule a hearing for appropriate action by the board. If the board finds, after a hearing, that the contracts of the contractor are in violation of this section, such contractor's license shall be immediately revoked. (C) Notice of such revocation shall be sent by the board to the contractor's licensing authority in all states in which such contractor is licensed as a contractor. (D) In any action for damages based on the waiver of a right of lien filed by a person solicited by the contractor, such person shall have the right to recover from the contractor reasonable attorney's fees and cost in connection with the enforcement of such lien.

**SECTION 2.** This act shall take effect **July 1, 2009**, the public welfare requiring it.

**\*PUBLIC CHAPTER NO. 529  
SENATE BILL NO. 2300  
(TN Clean Energy Future Act of 2009 / Statewide Code)  
\*(Not part of Title 62, Chapter 6)**

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 3, and 22; Title 12, Chapter 3; Title 67, Chapter 6; Title 68, Chapter 120 and Title 71, Chapter 5, relative to energy efficiency and conservation. WHEREAS, ensuring clean, safe, reliable and affordable energy is critical to the prosperity of Tennessee's economy, the sustainability of Tennessee's environment and the general welfare of Tennessee's citizens; and WHEREAS, Tennessee's citizens, businesses, and governments face escalating energy costs and varying environmental effects of energy production and consumption; and WHEREAS, state government, as one of the largest consumers of energy within Tennessee, has the capacity and responsibility to lead by example in improving energy efficiency and conservation; and WHEREAS, Tennessee sees especially unique opportunities in promoting residential energy efficiency in the wake of findings that show the Volunteer State has the highest per capita residential electricity consumption in the nation; and WHEREAS, Tennessee is home to a wealth of public and private resources that can drive the development of clean energy technology and increase economic development potential in the energy sector; and WHEREAS, the governor's task force on energy policy, comprised of representatives of state agencies and the General Assembly and individuals representing business, environmental and other interests, worked throughout 2008 to develop recommendations that could serve as the basis for a sound, comprehensive energy policy for Tennessee; now, therefore, BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

**SECTION 1.** This act shall be known and may be cited as the "Tennessee Clean Energy Future Act of 2009".

**SECTION 2.** Tennessee Code Annotated, Section 4-3-1012, is amended by deleting the words "office of energy management" in subsection (a) and substituting instead the words "state building energy management program".

**SECTION 3.** Tennessee Code Annotated, Section 4-3-1012, is amended by adding the following language as a new subsection (c): (c) The energy management program described in subsection (b) may include, but is not limited to, implementing energy cost saving measures in buildings under the jurisdiction of the State Building Commission. The measures may include, but shall not be limited to, maintenance, repair or replacement of lighting and mechanical equipment and related controls. Energy cost saving measures may be implemented through contracts with energy professionals including, but not limited to, energy service companies, commissioning and retro commissioning firms and agencies and energy auditing consultants. Such contracts are subject to approval by the State Building Commission. All departments, institutions and agencies having control of, or responsibility for, the management or operation of buildings under the jurisdiction of the State Building Commission shall cooperate with state building energy management in implementing energy cost saving measures.

**SECTION 4.** Tennessee Code Annotated, Section 4-3-1017, is amended by deleting the words "office of energy management" in subsection (a) and substituting instead the words "state building energy management program".

**SECTION 5.** Tennessee Code Annotated, Section 4-3-1017, is amended by deleting the words "Encouragement of the use of" in subdivision (a)(2) and substituting instead the words "Development and implementation of projects using".

**SECTION 6.** Tennessee Code Annotated, Section 4-3-1018, is amended by deleting subsection (b) in its entirety and substituting instead the following: (b) Each person designated as a liaison with the department shall cooperate with and assist the department in conducting energy audits of the building or group of buildings for which such person is the designated liaison, as well as any other studies or plans carried out by the department under the provisions of this chapter or energy efficiency codes. Duties of such person shall include, but not be limited to, collecting energy use and other data requested by the department, assisting the department in identifying energy use reduction opportunities, implementing energy use reduction efforts and monitoring and reporting results following such efforts.

**SECTION 7.** Tennessee Code Annotated, Section 4-3-1109, is amended by deleting the second sentence of subsection (a) and substituting instead, "Each year, every effort should be made to achieve a target goal that one hundred percent (100%) of newly purchased passenger motor vehicles be energy-efficient motor vehicles."

**SECTION 8.** Tennessee Code Annotated, Section 4-3-1109, is further amended by adding the following language after the second sentence in subsection (a): The department shall ensure that at least twenty-five percent (25%) of newly purchased passenger motor vehicles procured for use in areas designated by the U.S. Environmental Protection Agency (EPA) as ozone nonattainment areas shall be hybrid-electric vehicles, provided that such vehicles are available at the time of procurement. In the event that such vehicles are not available at the time of procurement, the department may instead meet this mandate by procuring compact fuel-efficient vehicles. In areas not designated by the EPA as ozone nonattainment areas, the department shall ensure that at least twenty-five percent (25%) of newly purchased passenger motor vehicles are hybrid-electric vehicles or compact fuel-efficient vehicles.

**SECTION 9.** Tennessee Code Annotated, Section 4-3-1109(b)(2), is amended by adding the following language as a new subdivision: (C) Plans for integrating energy-efficient motor vehicles identified in Tennessee Code Annotated, Section 4-3-1109(c)(1)(E) and (G), into the state passenger motor vehicle fleet.

**SECTION 10.** Tennessee Code Annotated, Section 4-3-1109(c)(1)(C), is amended by deleting the word "or".

**SECTION 11.** Tennessee Code Annotated, Section 4-3-1109(c)(1)(D), is amended by inserting after the word "A" and before the word, "vehicle" the words, "compact fuel-efficient vehicle, defined as a".

**SECTION 12.** Tennessee Code Annotated, Section 4-3-1109(c)(1)(D), is further amended by deleting the word "and" following the semicolon and substituting instead the word "or".

**SECTION 13.** Tennessee Code Annotated, Section 4-3-1109(c)(1), is further amended by adding the following language as new subdivisions: (E) An electric vehicle (EV); (F) A vehicle powered by natural gas; or (G) A vehicle powered by ultra low sulfur diesel fuel that meets Bin 5, Tier II emission standards mandated by the EPA and that has an EPA-estimated highway mileage rating of at least thirty (30) miles per gallon or greater for the model year purchased.

**SECTION 14.** Tennessee Code Annotated, Section 12-3-605, is amended by adding the following language as new, appropriately designated subsections: ( ) All future office equipment, appliances, lighting, and heating and cooling products and systems purchased by and for state agencies shall be Energy Star qualified, provided that such Energy Star qualified products and systems are commercially available. ( ) Existing purchasing contracts for all state agencies that do not provide as options Energy Star qualified office equipment, appliances, lighting and heating and cooling products and systems shall not be renewed upon expiration. All future contracts for state agencies shall provide as options Energy Star qualified office equipment, appliances, lighting and heating and cooling products and systems. ( ) The Department of General Services, in consultation with the Department of Finance and Administration, shall establish and publish guidelines providing direction to all state agencies regarding implementation of this section.

**SECTION 15.** Tennessee Code Annotated, Section 67-6-232(b)(1), is amended by deleting the language "or emerging occupations," and by substituting instead the language "emerging occupations, or clean energy technology, including, but not limited to, clean energy technology research and development and installation,".

**SECTION 16.** Tennessee Code Annotated, Section 67-6-232(b)(1), is further amended by deleting the period (".") after the words "trade show facilities" and substituting instead the following: ; provided, however, that emerging industry can include those primarily engaged in manufacturing clean energy technology. For the purposes of this section, clean energy technology means technology resulting in energy efficiency, technology

used to generate energy from biomass, geothermal, hydrogen, hydropower, landfill gas, nuclear, solar, and wind sources, and technology that is designed to result in the development of advanced coal through carbon capture and sequestration or otherwise any other manner that significantly reduces CO2 emissions per unit of energy generated. Notwithstanding any other provision of this section, businesses engaged in the development and construction of coal fired power plants shall not be eligible for the emerging industry tax credit. The credit provided under this section shall apply only if the Commissioner of Revenue and the Commissioner of Economic and Community Development have determined that allowance of the credit is in the best interests of the state. For purposes of this section, "best interests of the state" includes, but is not limited to, a determination that the taxpayer made the minimum investment as a result of the credit.

**SECTION 17.** Tennessee Code Annotated, Section 67-6-232(c), is amended by deleting the period (".") after the language "67-4-2109(a)-(c)" and by substituting instead the language "and the exemption provided under § 67-6-206(a).".

**SECTION 18.** Tennessee Code Annotated, Section 68-120-101(a), is amended in subdivision (1) by inserting the language "energy efficiency," between the language "structural strength and stability;" and "means of egress;".

**SECTION 19.** Tennessee Code Annotated, Section 68-120-101(a), is amended by adding the following as a new subdivision (8): (8) Shall not include mandatory sprinkler requirements for one-family and two-family dwellings; however, notwithstanding the foregoing, local governments may adopt more stringent requirements for one-family and two-family dwellings; (9) The department shall analyze the cost and effectiveness of sprinkler equipment in one-family and two-family dwellings in areas where residential sprinklers are in use, including Tennessee and other states deemed appropriate by the department, and report the results of such analysis to the general assembly on or before May 1, 2010. In conducting such analysis, the department shall seek input from nonprofit and business groups or organizations including, but not limited to, the Tennessee Fire Chiefs Association and the Home Builders Association of Tennessee.

**SECTION 20.** Tennessee Code Annotated, Section 68-120-101(b), is amended by deleting subdivision (1) in its entirety and by substituting instead the following language:(1)(A) The standards established pursuant to subsection (a) apply to municipal, county, state and private buildings, including one-family and two-family dwellings, unless otherwise provided by statute.

(B)(i) Notwithstanding subdivision (b)(1)(A), the standards established pursuant to subsection (a) relative to one-family and two-family dwellings do not apply in any county or municipality in which the legislative body of the county or municipality, by a two thirds (2/3) vote, adopts a resolution to exempt the county or municipality, as appropriate, from the application of statewide standards for one-family and two-family dwellings within the jurisdictional boundaries of the county or municipality, as appropriate; provided, however, any action by the county legislative body concerning the implementation of this subdivision (b)(1)(B)(i) shall be limited to the jurisdictional boundaries outside any municipality located within such county. Upon approving the resolution, the presiding officer of the legislative body shall notify the state fire marshal of the actions taken

hereunder. (ii)(a) An initial resolution following July 1, 2009, may be adopted by a county or municipal legislative body to take effect on July 1, 2010, or at a later date stated in the resolution. (b) A resolution adopted pursuant to subdivision (b)(1)(B)(ii)(a) or the adoption of any other resolution, shall expire one hundred eighty (180) days following the date of the election for the local legislative body next occurring following the adoption of the resolution, but an earlier expiration date may be stated in the resolution. (C) The governing body of any such county or of a municipality located in any such county which has taken the action pursuant to subdivision (b)(1)(B) is authorized to reverse such action by adopting a resolution to apply the provisions of subsection (a) with respect to one family and two-family dwellings within the jurisdictional boundaries of the municipality or county, as appropriate; provided, that, any action by the county legislative body concerning its actions shall be limited to the jurisdictional boundaries outside any municipality located within such county. The presiding officer of the governing body shall notify the state fire marshal of the approval of the resolution.

**SECTION 21.** Tennessee Code Annotated, Section 68-120-101(b)(2), is amended by deleting subdivision (A) in its entirety and substituting instead the following language: (A) The local jurisdiction has chosen to adopt and enforce building construction and fire safety codes for construction of all buildings; for construction of all buildings other than one-family and two-family dwellings; or for construction of one-family and two-family dwellings only; and (i) For one-family and two-family construction, it has adopted the International Residential Code, published by the International Code Council, Inc.,

(ii) For construction other than one-family and two-family dwellings, it has adopted a building construction safety code consisting of the International Building Code, published by the International Code Council, Inc., and either: (a) The International Fire Code, published by the International Code Council, Inc.; or (b) The Uniform Fire Code, published by the National Fire Protection Association, Inc., if adopted on or after July 1, 2006; and

**SECTION 22.** Tennessee Code Annotated, Section 68-120-101(b)(2), is amended by deleting subdivision (B) in its entirety and substituting instead the following language: (B) It is adequately enforcing its code and performing any reviews of construction plans and specifications and inspections required by the state fire marshal under this section.

**SECTION 23.** Tennessee Code Annotated, Section 68-120-101(b)(4), is amended by deleting subdivision (A) in its entirety and substituting instead the following language:

(A) The local government's building construction safety code publications are not current within seven (7) years of the date of the latest editions thereof, unless otherwise approved by the state fire marshal in writing, provided, however, that nothing herein shall require a local government to adopt a standard more stringent than the standards enforced by the state fire marshal, pursuant to this section, or to adopt a mandatory sprinkler requirement for one-family and two-family dwellings; or **SECTION 24.** Tennessee Code Annotated, Section 68-120-101(c)(1), is amended by inserting the words "Renovations of existing" before the words "one-family and two-family dwellings;"

**SECTION 25.** Tennessee Code Annotated, Section 68-120-101, is amended by adding the following as a new subsection (f): (f)(1)(A) The state fire marshal may, in addition to the other provisions of this part, authorize and appoint any person, employed by any municipality or county or acting through a professional corporation pursuant to § 48- 101-601, who meets the qualifications enumerated in subdivision (f)(2) as a commissioned deputy building inspector in this division, who shall have all the power of other deputies and assistants to enter any one-family and two-family dwellings to make inspections of the buildings and their contents, and to report the inspections in writing to the commissioner. The commissioner is directed to contract with each deputy building inspector through the municipality or county employing the inspector or the inspector's professional corporation to provide one-family and two-family building inspection services. The contracts shall be entered into between the commissioner, with the approval of the Commissioner of Finance and Administration, and the professional corporation employing the building inspector and the building inspectors shall not be deemed employees of the state for payroll purposes or otherwise. (B) A deputy building inspector shall be certified by the State of Tennessee as: (i) a building inspector pursuant to § 68-120-113; or (ii) a plumbing inspector pursuant to § 68-120-118; or (iii) a mechanical inspector pursuant to § 68-120-118. A deputy building inspector shall be limited in performing inspections to the discipline in which they are certified. (C) The commissioner shall provide a program to ensure that one-family and two-family building construction inspection services are available throughout the state on a timely basis. An inspection shall be considered timely if it is performed within three (3) working days of when the request is made to the inspector, except that an inspection of a footer shall be considered timely if

it is performed within one (1) working day of when the request is made to the inspector. (2)(A) Deputy building inspectors appointed by the commissioner are authorized to inspect one-family and two-family building construction upon receipt of a request from the owner of the property, a licensed contractor, or from municipal governing bodies, or from the county legislative body of the county in which the buildings are located. Each inspector, either through their municipality, county or professional corporation, shall be authorized to charge for and receive a fee for each inspection. (B) The state fire marshal shall establish a schedule of fees to pay the cost incurred by the department for the administration and enforcement of this part. (C) The state fire marshal may require the inspection of one-family and two-family dwellings with or without a request, in the same manner that inspections are made in accordance with § 68-102-116, and the remedies for dangerous conditions shall be the same as provided in § 68-102-117; provided, that no fees shall be charged for making inspections directed by the state fire marshal as authorized by those sections. (D) No inspection fees may be charged except where an actual inspection is made. (3) The state fire marshal may promulgate such rules and regulations as necessary to carry out the provisions of this part, in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

**SECTION 26.** Tennessee Code Annotated, Section 71-5-401, is amended by deleting the section in its entirety and substituting instead the following: 71-5-401. (a)(1) The Department of Human Services shall administer any funding received under the federal low-income energy assistance and weatherization programs, any other federal funds for energy assistance or energy conservation for residential units and any state funds appropriated to the department for purposes of providing to eligible persons energy assistance and residential weatherization as defined by federal law or regulation. To meet the goal of the American Recovery and Reinvestment Act of 2009, the department shall ensure that there are qualified contractors and contracting firms, energy auditors and auditing firms, and energy inspectors and inspection firms qualified to provide weatherization services and products. (2) Administration in accordance with state plan approved by federal government or state law. (i) The department shall administer the low-income energy assistance and weatherization programs in accordance with the state plan for each program as approved by the federal government for any federal funding, and in accordance with any provisions of state law for any state funding provided for such assistance. (ii) The provisions of the state plan approved by the federal government governing the expenditure of federal funds for such programs shall supersede any state law or regulations that are inconsistent with the approved state plan. (3) Rulemaking authority. (i) The department shall have the power to promulgate any necessary regulations to administer the low-income energy assistance and weatherization programs pursuant to the provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5. (ii) If necessary to provide for the immediate expenditure of any emergency low-income energy assistance or weatherization funds in the event of any severe energy crisis or disaster as declared by the governor, or to provide timely assistance under any funding criteria that require the expenditure of such funds under any short-term funding program, the department shall have authority to promulgate any necessary regulations to implement the provision of such assistance by public necessity rule; provided, that any permanent rules shall be promulgated pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5. (b)(1) The department may allocate to the residential weatherization program any funds received for energy assistance under the federal low-income energy assistance program or from any other federal energy assistance fund up to the maximum amount permitted by federal law. (2) Any separate state funding for energy assistance shall be allocated as authorized in the annual appropriations act. (c) Notwithstanding any state law or regulation to the contrary, the department may provide residential weatherization assistance at any percentage of the federal income poverty level that is permitted by federal law. (d) Benefit levels shall be determined based upon those prescribed by federal law.

**SECTION 27.** Tennessee Code Annotated, Section 71-5-402, is amended by deleting the section in its entirety.

**SECTION 28.** Tennessee Code Annotated, Section 68-120-101(b), is amended by adding the following language as subdivision (3) and renumbering the subsequent subdivisions appropriately: (3) If a local jurisdiction chooses to adopt and enforce codes for only one family and two-family dwellings or for all buildings other than one-family and two family dwellings that would be subject to the codes adopted by the state fire marshal pursuant to subdivision (a)(1), the state fire marshal shall enforce the statewide codes with regard to those buildings for which the local jurisdiction has not adopted and is not enforcing codes.,

**SECTION 29.** If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

**SECTION 30.** The provisions of this act shall be subject to sunset review pursuant to Title 4, Chapter 5, in 2014.

**SECTION 31.** For purposes of rulemaking this act shall take effect upon becoming a law, the public welfare requiring it. Sections 18 through 25 and Section 28 shall take effect July 1, 2010, the public welfare requiring it. Sections 26 and 27 of this act shall take effect upon becoming a law, the public welfare requiring it. All remaining sections of this act shall take effect **July 1, 2009**, the public welfare requiring it.

PASSED: June 12, 2009

**\*PUBLIC CHAPTER NO. 530**

**SENATE BILL NO. 2318**

**(Contractor Tax Credit - Section 77 of 133)**

\*(Not part of Title 62, Chapter 6)

SECTION 77. Tennessee Code Annotated, Section 67-4-711(a), is amended by deleting subdivision (5) in its entirety and by substituting instead the following: (5)(A) Amounts actually paid during the business tax period by a contractor to a subcontractor holding a business license or who is licensed by the state board for licensing contractors for performing the activities described in § 67-4-708(4)(A). For a contractor to be eligible to claim the deduction, such contractor must provide, on a form prescribed by the commissioner, the name, address, and business license or contractor's license number of the subcontractor and the amount subcontracted. The contractor also must maintain in its records a copy of the subcontractor's business license or license issued by the board for licensing contractors.

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## **2008 Legislation Summary – Bills Passed**

**PUBLIC CHAPTER NO. 792**

**SENATE BILL NO. 1288**

**(Geothermal HVAC Projects)**

Section 62-6-119(b), is amended in the first sentence by inserting the language "and for each vertical closed loop geothermal heating and cooling project, the company name, Tennessee Department of Environment and Conservation license number, classification (G, L or G,L) and the expiration date," between the language "air conditioning contracts," and the language "appear on the outside of the envelope".

SECTION 2. Tennessee Code Annotated, Section 62-6-119(b), is amended in the fourth sentence by inserting the language "or the geothermal heating and cooling" between the language "air conditioning" and the language "must be so designated".

This act shall take effect **July 1, 2008**

**PUBLIC CHAPTER NO. 904**

**SENATE BILL NO. 3902**

**(Non-Reciprocal States)**

Section 62-6-111(a)(1), is amended by designating the current language as subdivision "(A)" and by adding the following new language, to be designated as subdivision "(B)": (B) Anyone desiring to be licensed as a contractor for this state, who resides in a state that does not practice reciprocity with licensees of the Tennessee board for licensing contractors, shall make written application on such forms as shall be prescribed by the board and shall attach an affidavit thereto stating that the applicant is not currently performing any construction work and has not offered to

engage in any construction work in this state wherein the amount of the applicant's contract exceeds twenty-five hundred dollars (\$2,500) or, in the case of a limited licensed electrician, wherein the amount of such applicant's contract exceeds twenty-five thousand dollars (\$25,000). The application shall be accompanied by an application fee as set by the board. The application shall also be accompanied by evidence of the applicant's current workers' compensation insurance coverage. Failure to provide such evidence of insurance coverage shall make the applicant ineligible for licensure by the board until such evidence of insurance coverage is provided. Any application for initial licensure or for renewal of licensure also shall be accompanied by an affidavit affirming that the applicant maintains general liability insurance and workers' compensation insurance and specifying the amount of the insurance as well as any other information the board may require.

This act shall take effect July 1, 2008.

**\*PUBLIC CHAPTER NO. 804**  
**HOUSE BILL NO. 3105**  
**(Retainage)**  
**\*(Not part of Title 62, Chapter 6)**

Section 66-11-144(g), is amended by deleting the subsection in its entirety and by substituting instead the following: (g) This section shall be applicable to all prime contracts and all subcontracts thereunder for the improvement of real property when the contract amount of such prime contract is five hundred thousand dollars (\$500,000) or greater, notwithstanding the amount of such subcontracts.

SECTION 2. The Tennessee Code Commission is directed to move Tennessee Code Annotated, Section 66-11-144 in its entirety to Title 66, Chapter 34, Part 1 to be renumbered as § 66-34-104.

SECTION 3. Tennessee Code Annotated, Section 66-34-103, is amended by adding the following as new subsections (d) and (e): (d) In the event that an owner or prime contractor withholds retainage which is for the use and benefit of the prime contractor or its subcontractors pursuant to subsections (a) and (b) of § 66-34-104, neither the prime contractor nor any of its subcontractors shall be required to deposit additional retained funds into an escrow account in accordance with § 66-34-104(a) and (b).(e)(1) It is an offense for a person, firm or corporation to fail to comply with the provisions of § 66-34-104(a) or subsection (a) or (b) of this section. (2) (A) A violation of this subsection is a Class A misdemeanor, subject to a fine only of \$3,000.00.

**PUBLIC CHAPTER NO. 861**  
**SENATE BILL NO. 3968**  
**(Public Member Appointment)**

Section 62-6-104(a)(1), is amended by deleting the following language in the second sentence of the subdivision: and at least one (1) of whom shall be a person who is not engaged as a contractor in any county of this state and by substituting instead the language: and at least one (1) of whom shall be a person who is not engaged as a contractor in any county of this state and has no significant financial interest in residential contracting. For purposes of this section, "significant financial interest" means ten percent (10%) of gross personal income for a calendar year except that it means fifty percent (50%) of gross personal income for a calendar year if the recipient is over sixty (60) years of age and is receiving such portion pursuant to retirement, pension, or similar arrangement. SECTION 2. It is the intent of the general assembly that the current member of the state board for licensing contractors who is not engaged as a contractor shall continue to serve on the board until the expiration of the member's current term of service. SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: April 21, 2008



**SENATE BILL 4039**  
**(Energy Efficient Schools Initiative)**  
**\*(Not part of Title 62, Chapter 6)**

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 49, relative to creating the Energy Efficient Schools Initiative.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:  
SECTION 1. Tennessee Code Annotated, Title 49, is amended by adding sections 2 through 8 as a new chapter.

SECTION 2. This chapter shall be known and may be cited as the "Energy Efficient Schools Initiative (EESI) of 2008."

**HOUSE BILL 2949**  
**(Notify Licensees – January 1, 2009)**

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 3; Title 4, Chapter 5; Title 37, Chapter 5, Part 1; Title 43; Title 44; Title 45, Chapter 1, Part 1; Title 62; Title 63; Title 68 and Title 71, Chapter 1, Part 1, relative to licenses, certifications, and registrations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:  
**SECTION 1.** Tennessee Code Annotated, Section 62-76-101, is amended by designating the existing language as subsection (a) and by adding the following language as a new subsection (b): (b) Each board, commission, agency or other governmental entity created pursuant to this title shall:

(1) Notify each holder of a license, certification or registration from such board, commission, agency or other governmental entity where to obtain a copy of any statutes, rules, policies, and guidelines that regulate such holder and are implemented or enforced by such entity and shall, upon request, make available to the holder a copy of such statutes, rules, policies, and guidelines.....

**\*PC 1041 / HOUSE BILL NO. 1645**  
**(Workers Compensation – December 31, 2009)**  
**\*(Not part of Title 62, Chapter 6)**

**T.C.A. 50-6-113 (Chapter 1041 of the Public Acts of 2008)** clarifies that unless you are a sole proprietor or partner (with no employees) getting paid directly by the property owner, an employer in the contracting group designated by the National Council of Compensation Insurance (NCCI) must have workers' compensation insurance on all of their workers and themselves. This Act becomes effective December 31, 2009. More information is available with the Department of Labor and Workforce Development at: <http://www.state.tn.us/labor-wfd/wcomp.html>

Sole proprietors and partnerships, regardless if they have no employees, must have workers compensation insurance on themselves to work directly for the owner. Therefore, proof must be provided for all licensees as part of the requirements to obtain a contractor's and home improvement license under T.C.A. § 62-6-111; 116; and 506.

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## **2009 RULES & REGULATIONS - AMENDMENTS**

### **Rules of the Tennessee Board for Licensing Contractors**

#### **0680-01-.25 CONTRACTING IN CORRECT NAME.**

Upon receiving certificate of licensure from this Board, the licensee has an affirmative responsibility to enter into contracts and operate its related contracting business under the name in which it is licensed in order to notify and prevent confusion on the part of the public at large of an entity's licensure status. Contracting in a name different than that in which an entity is licensed by this Board is considered a violation of this chapter, and will be subject to discipline accordingly.

**Authority:** T.C.A. §§62-6-108(a) and 62-6-115. **Administrative History:** Original rule filed March 19, 2009; effective June 2, 2009.

## **2008 RULES & REGULATIONS - AMENDMENTS**

### **0680-07-.01 to 0680-07-.14 HOME IMPROVEMENT LICENSING**

Revised former rules of 0765-2 from T.C.A. Title 62, Chapter 37 which were merged with T.C.A. Title 62, Chapter 6. Includes revisions for fees, license issuance for two years, contract written requirements, payment schedule and advertisement guidelines. (*See separate attachment*)

### **0680-01-.10 RENEWAL OF LICENSES.**

Any person, firm or corporation desiring to renew a license shall make application to the Board on the prescribed forms. A renewal application for a monetary limitation greater than one million five hundred thousand dollars (\$1,500,000) must be accompanied by a reviewed or audited financial statement prepared by a licensed accountant. If a renewal applicant requests a monetary limitation of one million five hundred thousand dollars (\$1,500,000) or less, he or she may submit a notarized statement that the information contained in his or her financial statement is true and correct.

**Authority:** T.C.A. §§62-6-108, 62-6-111, and 62-6-116. Amendment filed April 28, 2008; effective July 12, 2008.

### **0680-01-.14 REQUEST FOR CHANGE OF CLASSIFICATION OR LIMITATION.**

(1) Request for Change of Classification or Limitation. A licensee may request the Board to consider revision of his classification(s) and/or monetary limitation(s) at any of its regular meetings. Such request shall be made by letter, which shall be accompanied by financial, equipment, and experience statements relative to the classification request accurate as of no more than twelve (12) months prior to the date of the request. The request must be received in the Office of the Board by the last day of the month preceding the month in which it is to be considered.

(2) A request for a change in monetary limitation to be less than one million five hundred thousand dollars (\$1,500,000) shall be reviewed or audited by a licensed accountant or certified public accountant. A request for a change in monetary limitation to more than one million five hundred thousand dollars (\$1,500,000) shall be audited and attested to by a licensed public accountant or certified public accountant.

(3) The Board reserves the right to require examination pursuant to request for change of classifications. The Board further reserves the right to consider a request for change of classification or limitation at any time if consideration of the request at the regularly scheduled meeting would cause an undue hardship on the owner and be in the best interest of the public safety and welfare.

(4) Increases within the first year will not be allowed without special permission from the Board.

**Authority:** T.C.A. §§62-6-108 and 62-6-111. Amendment filed April 28, 2008; effective July 12, 2008.

To review the complete Rules and Regulations, go to the publications site of the Secretary of State at: <http://www.state.tn.us/sos/rules/0680/0680.htm>

## **OTHER STATUTES RELATIVE TO CONSTRUCTION**

*These relate to the construction industry but are not within the Board's statute under Title 62, Chapter 6.*

### **LAWS** <http://www.michie.com/tennessee/>

- Contractors (T.C.A. Title 62, Chapter 6)
- Alarm Systems (T.C.A. Title 62, Chapter 32)
- Electrical (T.C.A. Title 68, Chapter 102)
- Fire Sprinkler (Title 62, Chapter 32)
- Workers Compensation (Title 50, Chapter 32)

### **RULES** <http://www.state.tn.us/sos/rules/>

- Contractors – Division of Regulatory Boards (TDCI 0680)
- Electrical - Division of Fire Prevention (TDCI 0780-02-01)
- Fire Sprinkler- Division of Fire Prevention (TDCI 0780-02-07)
- Workers Compensation (TDLWD – 0800-01)
- Alarm Systems Board Contractor Exemptions (TDCI - 0090-01-03)
- Environment & Conservation - Burning Permits; Asbestos Accreditation; Lead; etc. (TDEC 1200)

### **SECRETARY OF STATE – PUBLICATIONS** <http://www.state.tn.us/sos/rules/>

- Rulemaking Hearings Notices
- Pending Rules
- All Rules for State

TDCI: Tennessee Department of Commerce and Insurance  
TDEC: Tennessee Department of Environment and Conservation  
TDLWD: Tennessee Department of Labor Development and Workforce  
SOS: Tennessee Secretary of State

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## **RECIPROCATION**

Tennessee, as well as most states, does not have reciprocation where a contractor licensed from another state is allowed to use their state's license to perform work in our state without a Tennessee contractor's license. The only type of reciprocation offered is with the trade exam; only a part of the licensing process. Several state agencies have agreed to waive the trade exam for certain classifications, such as: Alabama, Arkansas, Louisiana, Mississippi, North Carolina and South Carolina. In addition, the Board voted to accept the NASCLA National Commercial Exam.

## **CONTRACTOR CLASSIFICATIONS OUTLINE**

Check the Board's website for a listing of frequently used contractor license classifications and bidding information at: <http://tn.gov/commerce/boards/contractors/>

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## **RESOURCES**

*Note: This is a summary of legislation not published in the "2007 Edition of the Board for Licensing Contractor's Law, Rules and Regulations". More information is available with the Tennessee General Assembly at: <http://www.legislature.state.tn.us/>.*

*To review the contents of all chaptered laws, you may do so with LexisNexis Law publishing at: <http://www.michie.com/tennessee/>*

*Rules and Regulations of all effective rules, pending or scheduled rulemakings, are at the Secretary of State's website at: <http://www.state.tn.us/sos/rules/>*

*To keep current with the laws, read FAQ's, check a license, review the license classifications outline policies or access to all sites, you may refer to the Board's website at: <http://tn.gov/commerce/boards/contractors/>*

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